

DATE: May 3, 1994

CASE NO: 93-ERA-39

In the Matter of

KATHERINE DELIA DUPRE'
Complainant

v.

TRU-TEC DIVISION OF KOCH
ENGINEERING COMPANY, INC.
Respondent

Before: RICHARD D. MILLS
Administrative Law Judge

RECOMMENDED ORDER OF DISMISSAL

This case arises under the Employee Protection Provision of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. §5851. A Notice of Hearing was issued for March 3, 1994 in Baton Rouge, Louisiana.

Prior to the scheduled hearing date, Counsel advised the undersigned that a settlement had been reached in this matter. Subsequently, on April 13, 1994 a Stipulation of Dismissal with Prejudice was received. On April 20, 1994 a Release and Settlement Agreement was furnished to the undersigned. The settlement documents incorporate the understandings of the parties as to the basis for this settlement. The parties have moved that I recommend approval of the settlement agreement and that this case be recommended for dismissal with prejudice.

I note that this settlement agreement may encompass matters arriving under various laws, only one of which is the ERA. As the Secretary's authority over settlement agreements is limited to such statutes as are within my jurisdiction and is defined by the applicable statute, I have therefore limited my review to determining whether the terms of the agreement are fair, adequate and reasonable to settle Complainant's allegation that Respondent violated the ERA. I note that in paragraph 1(a) of the Release and Settlement Agreement the Complainant has agreed to completely release and discharge the Respondents from all claims, demands, rights and causes of action which she has or may have had against

the Company at any time up to the date of this agreement. Since a waiver of the Complainant's rights based upon any future employer actions would be contrary to public policy, I interpret that provision of the agreement as being simply a waiver of the right to sue in the future on claims or causes of actions arising out of facts occurring prior to the date of the execution of the agreement.

As limited and construed herein, and following consideration of the settlement agreement, I find the agreement to be fair, adequate and reasonable, and I believe it is in the public interest to adopt the agreement as a basis for the administrative disposition of this case.

Therefore, I recommend Dismissal of this proceeding with full prejudice based upon authority conferred by 29 C.F.R. §18.39(b).

RICHARD D. MILLS
Administrative Law Judge

Metairie, Louisiana

RDM/ea